

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

WILLIAM RAY BLACK

PETITIONER

VERSUS

CIVIL ACTION NO. 1:07-cv-1159-HSO-RHW

JACQUELYN BANKS

RESPONDENT

**ORDER ADOPTING PROPOSED FINDINGS OF FACT AND
RECOMMENDATION DENYING PETITIONER'S MOTION FOR
PRELIMINARY INJUNCTION AND TEMPORARY RESTRAINING ORDER**

This cause comes before the Court on the Proposed Findings of Fact and Recommendation [15-1] of United States Magistrate Judge Robert H. Walker entered in this cause on July 17, 2008. Magistrate Judge Walker reviewed Petitioner's Motion for Preliminary Injunction and Temporary Restraining Order and determined that it should be denied, as Petitioner's constitutional claims regarding the conditions of his confinement, including allegations of retaliation, tampering with mail, and denial of access to courts, are not appropriately presented in the context of a 28 U.S.C. § 2254 habeas petition. Magistrate Judge Walker determined that those claims should be brought in the context of a 42 U.S.C. § 1983 civil rights complaint. Petitioner did not file an objection to the Report and Recommendation. After review of the record, the Court, being fully advised in the premises, finds that said Proposed Findings of Fact and Recommendation should be adopted as the opinion of this Court.

IT IS, THEREFORE, ORDERED AND ADJUDGED that, the Proposed Findings of Fact and Recommendation [15-1] of United States Magistrate Judge Robert H. Walker entered in this cause on July 17, 2008, should be, and the same

hereby is, adopted as the finding of this Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that, Petitioner's Motion for Preliminary Injunction and Temporary Restraining Order [13-1] is **DENIED**.

SO ORDERED AND ADJUDGED, this the 6th day of August, 2008.

s/ Halil Suleyman Ozerden

HALIL SULEYMAN OZERDEN
UNITED STATES DISTRICT JUDGE